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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,594

05/15/2007

Ole Jeppe Fjord Larsen

7346

7590

08/05/2008

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EXAMINER

TRIGGS, ANDREW J

ART UNIT

PAPER NUMBER

3635

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,594	<b>Applicant(s)</b> LARSEN, OLE JEPPE FJORD	
	<b>Examiner</b> Andrew J. Triggs	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities: “an expansion” is referenced by both the numeral 23 and 25. The words “possibly” and “or” are also used and are indefinite. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim refers to “three of the walls consist of mosquito net” but it appears that there are only two walls and a roof. It appears that the mosquito net on top of the revolving frames is referred to as both a wall and a roof.

4. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 4 uses the terms expansion and console. The specification does not provide an adequate description for what these items are. In order to move prosecution along,

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examiner will interpret claim 4 to the best ability to mean that the piston has a roller on one side for moving inside a casing that is mounted to the frame.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Regarding claim 1, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

7. Claim 1 recites the limitation "three of the walls". There is insufficient antecedent basis for this limitation in the claim.

8. Claim 4 recites the limitation "the piston". There is insufficient antecedent basis for this limitation in the claim.

9. Claim 5 recites the limitation "the pipes". There is insufficient antecedent basis for this limitation in the claim. For examination purposes, the examiner will assume that "the pipes" mean one of the "revolving frames".

10. Claim 6 recites the limitations "the profile" and "the roll". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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12. Claims 1, 3-5, 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson, US Patent # 4,984,321.

Regarding claim 1, Larson teaches a foldable canopy (Column 1, Lines 62-64). The walls have an outer layer made up of a nylon screen (Column 3, Lines 22-25 and 29-30). The outer layer is present on the sides as well as the top of the canopy. Figure 1 shows that there are multiple revolving frames (20) with axes of rotation at the foot (18) of the unit. The screen is secured to the frames using snaps, screws, pins or any other suitable fastening method (Column 3, Lines 54-56).

Regarding claim 3, Larson teaches that the folding of the structure may be achieved by means of hydraulic piston-cylinders (Columns 2-3, Lines 67-5). Figure 2 shows that the hydraulic piston-cylinders (26) are connected to the wall. It is now shown, but the necessary equipment of hoses and pumps would be included in order to drive the pistons.

Regarding claim 5, Larson teaches that the folding of the structure may be achieved by means of hydraulic piston-cylinders (Columns 2-3, Lines 67-5).

Regarding claim 7, Larson teaches a foldable canopy (Column 1, Lines 62-64). The walls have an outer layer made up of a nylon screen (Column 3, Lines 22-25 and 29-30). The screen is secured to the frames using snaps, screws, pins or any other suitable fastening method (Column 3, Lines 54-56).

Regarding claim 10, Larson teaches that each of the ribs (20) are secured to the base members (18) via a hinge in order to pivot the ribs (20) (Column 2, Lines 64-67).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson, US Patent # 4,984,321 in view of Gerrie, US Patent # 7,210,492.

Regarding claim 2, Larson teaches that the outer cover of screen material is folded

accordion style (Column 3, Lines 56-60). Larson does not teach that the cover is rolled up on spring-driven roles. However, Gerrie teaches, in Figures 1 and 2, that a cover (32) is rolled up and down on a spring-driven roll (30). One of ordinary skill in the art at the time of the invention would have been motivated to have the cover on a roll in order to make the cover selectively attachable to the structure. Furthermore, if one of the screens were to get damaged, the roll could easily be replaced. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 6, Larson teaches that the outer cover of screen material is folded

accordion style (Column 3, Lines 56-60). Larson does not teach that the cover is rolled up on spring-driven roles. However, Gerrie teaches, in Figures 1 and 2, that a cover (32) is rolled up and down on a spring-driven roll (30). One of ordinary skill in the art at the time of the invention would have been motivated to have the cover on a roll in order to make the cover selectively attachable to the

structure. A roll would also allow the use of multiple rolls with different materials on them depending on the conditions needed that can easily be swapped out. Such as a waterproof roll for blocking water, a screen roll for keeping out bugs but allowing a breeze to flow through and an insulated roll in order to keep cold air in or out. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

15. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larson, US Patent # 4,984,321 in view of Appleman, US Patent # 3,615,028.

Regarding claim 4, Larson teaches a foldable patio with hydraulics, but does not teach the full hydraulic structure as recited by the claim. However, Appleman teaches, in Figure 3, a hydraulic system that consists of a hydraulic ram (52) that has a roller (66) attached to the end of it. The roller (66) slides in a casing (62) creating a track like member. This allows the device to be positioned correctly and also take full mechanical advantage of the ram. One of ordinary skill in the art at the time of the invention would have been motivated to modify the hydraulic system of Larson with the roller and track mechanism of Appleman in order to take full mechanical advantage of the hydraulic ram when raising or lowering the system. This would let the size of the ram be exactly what it needs to be and would save cost since the ram would use direct force on the system. This would allow full range of the system when raising it up or lowering it. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

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16. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson, US Patent # 4,984,321 in view of Koh, US Patent # 6,919,131.

Regarding claim 8, Larson teaches a foldable canopy (Column 1, Lines 62-64). The walls have an outer layer made up of a nylon screen (Column 3, Lines 22-25 and 29-30). Larson does not teach that the screen has an elastic material woven into it. However, Koh teaches an elastic woven fabric (Column 1, Lines 11-12). One of ordinary skill in the art at the time of the invention would have been motivated to make the screen out of an elastic woven fabric in order to give the screen elastic properties that allow it to contract when the apparatus is raised and keep it from drooping down. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 9, Larson teaches a foldable canopy (Column 1, Lines 62-64). The walls have an outer layer made up of a nylon screen (Column 3, Lines 22-25 and 29-30). Larson does not teach that the screen has an elastic material woven into it. However, Koh teaches an elastic woven fabric (Column 1, Lines 11-12). The elasticity of materials is determined by measuring the spring constant of a material. Since elastic would have a spring constant, it could be said that it is like a spring. One of ordinary skill in the art at the time of the invention would have been motivated to make the screen with an integrated spring in order to give the screen elastic properties that allow it to contract and be easier to fold when the apparatus is raised. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.



***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. SEE NOTICE OF REFERENCES CITED.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Triggs whose telephone number is 571-270-3657. The examiner can normally be reached on Monday through Thursday 7:00am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew J Triggs/

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Examiner, Art Unit 3635

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635